

REMARKS

After entry of the foregoing amendment, claims 1, 3-7 and 9-32 are pending in the application.

Certain claims are amended. Claims 28-32 are newly added.

The specification has been amended to insert, into the specification, language from claims 1, 3, 7 and 8 as originally filed.

In its Decision on Appeal, the Board affirmed anticipation rejections made by the Examiner because the term “on-line shopping environment” (as used in various claims) was construed broadly enough to encompass Swartz’s use of networked computer technology in a bricks and mortar store.

Such construction was not applicants’ intent when drafting the claims. Applicants intended to draw a clear distinction between a “bricks and mortar” store, versus an on-line shopping environment. Swartz is an example – under applicants’ intended construction – of a bricks and mortar store, only. Its use of networked computers does not render Swartz’s store an “on-line shopping environment,” as applicants had meant that term to be construed.

The Board noted that applicant’s spec used “more particularized” terms not taught by Swartz, e.g., “virtual storefront” and “on-line store” (*see, e.g.*, Decision on Appeal, bottom of page 8). However, the claims used the more general term “on-line shopping environment,” and – giving the term its broadest reasonable construction - the Board construed this term to encompass Swartz’s networked computers.

By the foregoing amendments, applicants have adopted the Board’s implicit suggestions, and have limited the claims through use of the more particularized terms used in the specification (e.g., “an on-line store or virtual storefront”). As recognized by the Board, Swartz does not teach such limitations.

Moreover, the claims have been further detailed in other respects, introducing additional limitations not taught or suggested by the art.

In some cases the claims are amended in accordance with implicit suggestions made in the Board's Decision on Appeal. For example, in claim 22 the Board construed the "shelf-based" language to describe a sensor based on a shelf, "but not necessarily mounted on one." Claim 22 has now been amended to require a "shelf-mounted" reader.

Likewise, concerning claim 26 the Board noted that the claim called for a second vendor "distinct" from the first, but observed that "there is no requirement that the vendors be different in order to be distinct." Claim 26 has now been amended to require that the vendors be "different."

Similarly, in claim 9 the Board noted that applicants' appeal arguments were phrased in terms of "purchasing products online," but the claim recited the different language "on-line shopping." Claim 9 has now been amended to require "purchasing products online." (Likewise in claims 17-19.)

In view of such amendments, claims 1, 3-7 and 9-27 are believed to be in condition for allowance.

Claims 28-32 are newly added. Support for claim 28 is found in applicants' specification, *e.g.*, on page 1 (lines 8-30) and on page 4 (lines 1-8). Support for claims 29-32 is found in applicants' specification, *e.g.*, in the paragraph bridging pages 5-6.

Submitted herewith is an IDS listing various art recently located by the undersigned. The Degeratu paper is not, strictly speaking, prior art. However, applicants admit that its discussion of Peapod's "Personal Lists" describes a technology that constitutes prior art under § 102 (a).

Reconsideration in view of the foregoing is requested.

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